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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,423	03/16/2006	Joseph Bertony	026328-00007	4452

4372 7590 04/18/2007  
ARENT FOX PLLC  
1050 CONNECTICUT AVENUE, N.W.  
SUITE 400  
WASHINGTON, DC 20036

EXAMINER
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WIEHE, NATHANIEL EDWARD

ART UNIT	PAPER NUMBER
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3745

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/528,423

Applicant(s)

BERTONY, JOSEPH

Examiner

Nathan Wiehe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 03182005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 18 March 2005 is noted. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Annis (2,677,344) in view of Benesh (4,359,311). Annis discloses a vertical axis wind turbine including longitudinally extending blades/sails (8) having a tapered triangular shape and thereby having an increasing axial cross-sectional width along the axis. Annis' blades/sails operate by having a leading, convex, surface that diverts flow impinging thereon, generating a zone of reduced fluid pressure and a trailing, concave, surface that having turbulent flow impinging thereon, generating a zone or increased pressure (Annis column 3, line 75-column 4, line 11). Annis' blades/sails are arranged tangentially to the axis and therefore have a pitch of 90°. Annis does not disclose the

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use of three equally spaced blades. Benesh discloses the use of three symmetrically disposed blades in a vertical axis turbine reduces vibrations caused by variations of starting torque directions (Benesh column 1, lines 43-49). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vertical axis turbine of Annis by using a three blade arrangement as taught by Benesh for the purposed of reducing starting torque induced vibration.

Claims 2 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Annis (2,677,344) in view of Benesh (4,359,311) as applied to claims 1 and 11 above, and further in view of Kolozsy (1,172,149). The modified invention of Annis discloses the invention substantially as claimed except for the use of longitudinally extending rearwardly inclined edge strip. Kolozsy discloses a vertical axis turbine including a plurality of blades (22) with a longitudinally extending edge strip (23). The edge strips of Kolozsy are indicated as assisting the rotation of the rotor due to the impingement of wind on the blades (22) (Kolozsy page 1, line 57-63). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the vertical axis turbine of Annis by including a edge strip as taught by Kolozsy for the purpose of assisting the rotation of the rotor due to the impingement of wind thereon. Additionally, the strips of Kolozsy appear to be flush with both the leading and trailing surfaces at least as evidenced by the fact that they extend along the entire periphery of the blade identically to the strips disclosed by applicant.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Annis (2,677,344) in view of Benesh (4,359,311) as applied to claim 1 above, and

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further in view of Wilhelm (5,044,878). The modified invention of Annis discloses the invention substantially as claimed except for the use of a plurality of turbines mounted along the longitudinal axis. Wilhelm discloses a vertical axis turbine including multiple turbine rotors (11,12) mounted along the longitudinal axis. These rotors are radially displaced from one another by 60°. The use of multiple offset rotors is known to provide smooth output torques due to the more consistent blade surface area exposure provided by the offset relationship. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the vertical axis turbine of Annis by utilizing multiple turbine rotors that are radially displaced from one another as taught by Wilhelm for the purpose of providing a smooth output torque.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Annis (2,677,344) in view of Benesh (4,359,311) as applied to claim 1 above, and further in view of Bergstein (5,333,996). The modified invention of Annis discloses the invention substantially as claimed except for the use of a liquid to cause rotation of the turbine and the turbine being connected to an electric generator. However, it is well known in the art of vertical axis turbines to not only utilize wind, but also water as the motive fluid, since they are both naturally occurring fluid currents. It is also known to provide the rotation output of the turbines to an electrical generator for producing electricity. Bergstein evidences both of these uses for a vertical axis turbine. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the vertical axis turbine of Annis by utilizing a

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liquid motive fluid and coupling the turbine to a generator since doing so is known in the art of vertical axis turbines, as evidenced by Bergstein.

***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents issued to Saiz and Rineer disclose vertical axis wind turbines including triangular sails/blades.

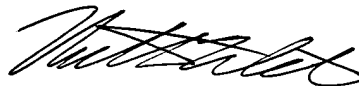
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Wiehe whose telephone number is (571)272-8648. The examiner can normally be reached on Mon.-Thur. and alternate Fri., 7am-4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571)272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nathan Wiehe  
Examiner  
Art Unit 3745



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4/16/07